

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

CR-08-27-BMM-1

Plaintiff,

vs.

MAYNARD M. OLD CHIEF,

Defendant.

**FINDINGS AND
RECOMMENDATIONS TO
REVOKE DEFENDANT'S
SUPERVISED RELEASE**

I. Synopsis

The United States accused Maynard M. Old Chief of violating his conditions of supervised release by 1) refusing to allow a home inspection, and 2) committing an assault, resisting arrest, and obstruction of justice. Mr. Old Chief admitted to the violations. His supervised release should be revoked, and he should be sentenced to twelve months in custody, with 24 months of supervised release to follow.

II. Status

A jury found Mr. Old Chief guilty of Assault with a Dangerous Weapon on May 7, 2008. (Doc. 54). United States District Court Judge Sam Haddon sentenced Mr. Old Chief to 120 months in custody followed by 36 months of supervised release on August 25, 2008. (Doc. 74). He began his current term of supervised

release on January 27, 2017.

Petition

The Probation Office filed a Petition for Warrant for Offender Under Supervision on July 19, 2017, accusing Mr. Old Chief of violating: 1) Standard Condition 6 by preventing a Probation Officer from conducting a home inspection on July 8, 2017 by threatening the officer's safety, and 2) by committing an assault, resisting arrest, and obstructing justice on July 16, 2017. The Petition alleges that on that date, a Blackfeet Police Officer responded to a service call at Mr. Old Chief's residence. Mr. Old Chief's brother, Johnny Lynn Old Chief ("Johnny Lynn") gave chase, and the officer apprehended him in the home, where Johnny Lynn resisted. The Petition further alleges that Mr. Old Chief closed the door behind the officer, trapping him in the home, and subsequently attacking the officer from behind, attempting to choke the officer. The officer then fought with the Mr. Old Chief and Johnny Lynn until back-up arrived. The police report reflects that Mr. Old Chief began to swing a chair at the officers, at which point, the officer deployed his Taser and incapacitated Mr. Old Chief.

Initial appearance

Mr. Old Chief appeared before the undersigned for an initial appearance on August 24, 2017, in Great Falls, Montana. Federal Defender Evangelo Arvanetes accompanied him at the initial appearance. Assistant United States Attorney Jared

Cobell represented the United States.

Mr. Old Chief said he had read the petition and understood the allegations. He waived the preliminary hearing and the detention hearing, and the parties consented to proceed with the revocation hearing before the undersigned.

Revocation hearing

Mr. Old Chief admitted that he violated the conditions of his supervised release. The violations are serious and warrant revocation of his supervised release.

Mr. Old Chief's violation grade is Grade C, his criminal history category is VI, and his underlying offense is a Class C felony. He could be incarcerated for up to 24 months. He could be ordered to remain on supervised release for 36 months, less any custody time imposed. The United States Sentencing Guidelines call for eight to fourteen months in custody.

Mr. Arvanetes recommended a sentence of eight months for Mr. Old Chief, stating that Johnny Lynn was the instigator. Mr. Old Chief exercised his right of allocution and apologized to the officers, recognizing that they were just doing their jobs. Mr. Cobell recommended a sentence of twelve months in custody, with 24 months of supervised release to follow.

III. Analysis

Mr. Old Chief's supervised release should be revoked because he admitted

violating its conditions. Mr. Old Chief should be sentenced to twelve months in custody, with 24 months of supervised release to follow. This sentence would be sufficient given the serious violation of the Court's trust, but it would not be greater than necessary.

IV. Conclusion

Mr. Old Chief was advised that the above sentence would be recommended to Judge Morris. The Court reminded him of his right to object to these Findings and Recommendations within 14 days of their issuance. The undersigned explained that Judge Morris would consider Mr. Old Chief's objection, if it is filed within the allotted time, before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose.

The Court **FINDS:**

Maynard M. Old Chief violated the conditions of his supervised release by 1) failing to provide a breath sample, and 2) committing an assault, resisting arrest, and obstruction of justice.

The Court **RECOMMENDS:**

The district court should revoke Mr. Old Chief's supervised release and committing him to the custody of the United States Bureau of Prisons for twelve months, with 24 months of supervised release to follow.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO
OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A district judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district judge, and may waive the right to appear and allocute before a district judge.

Dated the 28th day of August 2017.



John Johnston
United States Magistrate Judge